

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed July 11, 2008. At the time of the Office Action, Claims 1-23 were pending in this Application. Claims 1-23 were rejected. Applicants respectfully request reconsideration and favorable action in this case.

Objections under 37 CFR 1.21(d)

Examiner has objected to the drawings for failing to label the boxes in Figures 1-5 and 7 under 37 CFR 1.21(d). Applicants submit replacement drawings containing labels for all boxes used in the drawings.

Rejections under 35 U.S.C. § 112

Claims 1-23 were rejected by the Examiner under 35 U.S.C. §112, second paragraph, as being indefinite and failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Applicants amend Claims 1 and 13 to overcome these rejections and respectfully request full allowance of Claims 1 and 13 as amended.

Rejections under 35 U.S.C. § 102

Claims 1-23 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by *Nakamura et al.* (U.S. Patent No. 5,408,411). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the

... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The Examiner stated that *Nakamura* discloses all the limitations of the present independent claims. Applicant respectfully disagrees. According to the present independent claims, acceleration sensors and rotation sensors are used in a very specific way.. In particular, claim states that a monitoring device is provided for monitoring at least one of the measured linear accelerations using an output variable of the orientation determining device and using a comparison variable. Thus, the rotation sensors are used to determine an orientation value. This value is then used together with a comparison value to monitor at least one of the acceleration sensor values.

Nakamura discloses a different system in which three mounting stays which are arranged perpendicular carry six acceleration sensors, wherein in each case two sensors are used to control each other. See, *Nakamura* Fig. 4 and associated description, col. 7, lines 20-44. Thus, *Nakamura* fails to disclose three acceleration sensors and three rotation sensors. Moreover, *Nakamura* fails to disclose to determine an orientation from the rotation sensors. Finally, *Nakamura* fails to disclose to monitor at least one of the acceleration sensor values by means of the orientation determined through the rotation sensor values and a comparison value. The Examiner particularly stated that *Nakamura* discloses acceleration and rotation sensors in col. 7, lines 20-60. Applicant respectfully disagrees. *Nakamura* neither mentions nor suggests the use of rotation sensors. For the very same reason, *Nakamura* cannot teach to determine an orientation from the values of the rotation sensors let alone monitor at least one of the acceleration sensors by means of the orientation and a comparison value.

Hence, Applicant believes that *Nakumara* does not anticipate the independent claims. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make

further arguments regarding the Examiner's rejections under 35 U.S.C. §102 or §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized flourish at the end.

Andreas Grubert
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Date: October 13, 2008

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